

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE EQUIFAX, INC. CUSTOMER
DATA SECURITY BREACH
LITIGATION

MDL DOCKET NO. 2800
1:17-md-2800-TWT
CONSUMER CASES

**EQUIFAX'S MOTION TO AMEND THE
CASE MANAGEMENT ORDER FOR OPT-OUT CASES**

Defendants Equifax Inc., Equifax Information Services LLC, and Equifax Consumer Services LLC (collectively, “Equifax”) move the Court to amend the Case Management Order for Opt-Out Cases, Dkt. No. 1216, which sets forth the briefing schedule for Equifax’s pending consolidated Motion to Dismiss the Consumer Opt-Out Complaints, Dkt. No. 1221.

RELEVANT PROCEDURAL HISTORY

On October 27, 2021, this Court entered a Case Management Order for Opt-Out Cases, which set deadlines applicable to remaining cases in this MDL filed by consumers who opted-out of the consumer class action settlement (“Opt-Out Plaintiffs” and “Opt-Out Cases”). *See* Dkt. Nos. 1216, 1219 (as amended). Specifically, that Order called for Equifax to file a consolidated motion to dismiss the Opt-Out Cases (“Motion to Dismiss”) by December 10, 2021. It also set a deadline of January 24, 2022 for the Opt-Out Plaintiffs to each respond to Equifax’s

Motion to Dismiss. Finally, it required Equifax to file a consolidated reply in support of its Motion by February 23, 2022.

Equifax timely filed its Motion to Dismiss on December 10, 2021. *See* Dkt. Nos. 1220, 1221 (corrected brief). However, none of the Opt-Out Plaintiffs filed a response by the deadline of January 24, 2022. Ten Opt-Out Plaintiffs failed to file anything by the deadline, namely: Douglas Emery Adams, Cathy Eustice, Christopher Eustice, David Eustice, Travis Hubbard, Alice Flowers, Edward Hutchinson, Ruby Hutchinson, Anna Lee, and Raymond Silva.¹ Their complaints should be dismissed for failure to comply with the response deadline set by this Court. *See* Fed. R. Civ. P. 41(b); L.R. 41.3(A). Under the Case Management Order for Opt-Out Cases, Equifax's reply as to these ten Plaintiffs, in which it will formally seek such dismissal, is currently due on February 23, 2022 (30 days from the date when Plaintiffs' responses were due).

Three Opt-Out Plaintiffs filed motions to stay or extend their deadlines to respond to Equifax's Motion to Dismiss. Specifically, *pro se* Plaintiff Audella Patterson filed a motion seeking to stay and extend her deadline to respond to

¹ As previously stated, Equifax and Ivy Madsen, an Opt-Out Plaintiff listed in the October 27, 2021 Case Management Order, subsequently agreed to settle Madsen's claims. Dkt No. 1221-1, 3. Thus, Madsen did not file a response to Equifax's Motion.

Equifax's Motion to Dismiss by 30 days due to Plaintiff's recent illness with COVID-19. Two others, Plaintiffs Brett Joshpe and Richard Khalaf, filed a joint motion to extend their response deadlines to January 28, 2022, citing recent illness of their counsel with COVID-19. Dkt. No. 1224. As explained in previous filings, Equifax does not oppose either request for extension, but does oppose Plaintiff Patterson's motion insofar as it requests an indefinite stay of her case. *See* Dkt. No. 1224 at 2; Patterson Dkt. Nos. 23, 24.

Currently, only Plaintiffs Joshpe and Khalaf have filed a response to Equifax's Motion to Dismiss. Dkt. Nos. 1225, 1226.² Under the Case Management Order for Opt-Out Cases, Equifax's reply as to Plaintiffs Joshpe and Khalaf is due on February 28, 2022 (30 days from the date Plaintiffs filed their oppositions).

PROPOSED AMENDMENTS TO CASE MANAGEMENT ORDER

To promote efficiency and limit the number of filings made in connection with Equifax's Motion to Dismiss, Equifax proposes amending the Case Management Order for Opt-Out Cases as follows:

² These Plaintiffs filed their responses on January 28, 2022, consistent with the extension they had requested.

1. Equifax shall file a consolidated reply in support of its Motion to Dismiss as to all Opt-Out Plaintiffs except Plaintiff Patterson by February 28, 2022 (being 30 days after the filing of Plaintiffs Joshpe's and Khalaf's oppositions).
2. Separately, Equifax will file a reply in support of its Motion to Dismiss as to Plaintiff Patterson within 30 days after she files any opposition to Equifax's Motion to Dismiss.³

CONCLUSION

Equifax respectfully requests that the Court enter an order adopting the proposed amendments to the Case Management Order for Opt-Out Cases as outlined above. A proposed order is attached for the Court's consideration.

Respectfully submitted this 3rd day of February, 2022.

³ Should the Court deny entirely Plaintiff Patterson's pending motion for a stay and extension, Equifax will file its reply as to Patterson within 30 days of the Court's order denying her motion.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1D, the undersigned certifies that the foregoing complies with the font and point selections permitted by L.R. 5.1B. This Motion was prepared on a computer using the Times New Roman font (14 point).

Respectfully submitted, this 3rd day of February, 2022.

/s/ S. Stewart Haskins II
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CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of electronic filing to all counsel of record. I also certify I served the following pro se Plaintiffs by U.S. Mail, postage prepaid, and addressed as follows:

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